

File No. 801840

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X

DIONNE LEE

Plaintiff

RICHARD K. BAWUAH and  
COWAN EQUIPMENT LEASING

Civil Action No. 07-cv-9917

Defendants

-----X

**LEGAL BRIEF IN SUPPORT OF DEFENDANTS RICHARD K. BAWUAH AND  
COWAN EQUIPMENT LEASING'S MOTION IN LIMINE TO PRECLUDE THE  
TESTIMONY OF RAMESH P. BABU, M.D. OR IN THE ALTERNATIVE TO LIMIT  
THE SCOPE OF DR. BABU'S TESTIMONY**

On the Brief:  
Jeffrey A. Segal  
Marcus P. Ferreira

**TABLE OF AUTHORITIES****Cases**

<u>Perkins v. Origin Medsystems Inc.</u> , 299 F. Supp. 2d 45, 52 (D. Conn. 2004).....	5
<u>Koppell v. New York State Board of Elections</u> , 97 F. Supp. 2d 477, 479 (S. D. N.Y>, 2000).....	5
<u>Amorgianos v. AMTRAK</u> , 303 F.3d 256, 264 (2d Cir. 2002).....	5
<u>Campbell v. Metro. Prop. &amp; Cas. Ins. Co.</u> , 239 F.3d 179, 184 (2d Cir. 2001).....	5
<u>Daubert v. Merrell Dow Pharmaceuticals</u> , 509 U.S. 579 at 591 (1993).....	5
<u>Tufariello v. Long Island R. Co.</u> , 458 F.3d 80 (2 <sup>nd</sup> Cir. 2006).....	5
<u>Simpson v. Northeast Ill. Reg'l Commuter R.R. Corp.</u> , 957 F. Supp. 136, 138 (N.D. Ill. 1997).....	5
<u>Ruggiero v. Warner-Lambert Co.</u> , 424 F.3d 249, 254 (2 <sup>nd</sup> Cir. 2005).....	6

**Rules**

Fed. Jud. Proc. R. 26(a)(2)(B).....	3,4
Fed. R. Civ. Proc. 37( c)(1).....	4
Fed. R. Evid. 702.....	5

**UNITED STATES DISTRICT COURT  
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Civil Action No. 07-cv-9917

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**I. FACTS:**

This action arises out of a motor vehicle accident that occurred on the eastbound, Upper Level of the George Washington Bridge at approximately 12:40 a.m. on Monday, May 9, 2007. The nature and extent of plaintiff's alleged injuries is disputed amongst the parties.

By letter dated May 6, 2008 plaintiff's counsel identified Ramesh K. Babu, M.D as an expert in this matter. (See Exhibit "A"). To date, Dr. Babu has not issued a comprehensive narrative expert report. Instead, he has simply issued periodic status reports to GEICO, plaintiff's no-fault insurer. (See Exhibit "B") A review of his October 1, 2007 report reveals that Dr. Babu concluded with respect to causation: "To the best of my ability, I feel there is a causal relation between the accident and the current condition." (See Exhibit "C")

On December 10, 2007, Dr. Babu re-evaluated Lee and noted that Lee's Past medical history was "non contributory." His physical examination yielded nearly identical findings to his pre-surgical examination. Dr. Babu eventually recommended that Lee gradually increase her activities of daily living and perform physical therapy.

Dr. Babu provided no further clarification as to causation, nor did Dr. Babu provide a definitive prognosis or opinion as to whether or not Lee's condition(s) are permanent (See Exhibit "D").

On February 15, 2008 Dr. Babu issued a nearly identical follow-up report. Again, Dr. Babu provided no further clarification as to causation, nor did Dr. Babu provide a definitive prognosis or proffer an opinion as to whether or not Lee's condition(s) are permanent (See Exhibit "E").

Furthermore, at the June 10, 2008 status conference before Your Honor, plaintiff's counsel represented to the Court that he did require any extensions of the discovery deadlines. Therefore, the deadline for the exchange of expert reports has elapsed without plaintiff furnishing updated reports by Dr. Babu providing a more definitive statement regarding causation or providing a definitive prognosis as to whether or not Lee's condition(s) are permanent .

## **II.     LEGAL ARGUMENT**

Federal Judicial Procedure Rule 26(a)(2)(B), governing the issuance of written expert reports, states in pertinent part:

Unless otherwise stipulated or ordered by the court, **this disclosure must be accompanied by a written report**—prepared and signed by the witness—if the witness is one retained or specifically employed to provide expert testimony . . . The report **must** contain (i) a complete statement of all opinions the witness will express and the basis and reasons for them; (ii) the data or other information considered by the witness in forming them; (iii) the data or other information considered by the witness in forming them; . . ." (emphasis added).

As outlined above, the time for the parties to exchange expert reports was June 15, 2008, which came and went without plaintiff requesting an extension or serving an expert report.

In addition, Federal Rule of Civil Procedure 26(a)(2)(B) subparts (i)-(vi) requires the following additional expert disclosures, as follows:

- (i) a complete statement of all opinions the witness will express and the basis and reasons for them;
- (ii) the data of other information considered by the witness in furnishing them;
- (iii) any exhibits that will be used to summarize or support them;
- (iv) the witness's qualifications including a list of all publications authored in the previous 10 years;
- (v) a list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition; and
- (vi) a statement of the compensation to be paid for the study and testimony in the case.

Of the above requirements, plaintiff has arguably only satisfied subpart (iv).

Moreover, Federal Rule of Civil Procedure 37(c)(1) states that if a party fails to provide information as required by Rule 26(a), the party is not allowed to use that information to supply evidence on a motion, at a hearing, or at trial, unless the failure was substantially justified or is harmless. Contrary to the above rule, in the instant matter, Dr. Babu has failed to provide an analysis of whether or not plaintiff's condition pre-existed the motor vehicle accident in whole or in part, and therefore did not provide any basis for his conclusion that "To the best of my ability, I feel there is a causal relation between the accident and the current condition." (See Exhibits, "C, D and E"). Moreover, Dr. Babu has failed to provide an opinion as to whether or not plaintiff's post surgical condition is permanent, despite having issued a two post surgical reports (See Exhibits "D and E").

Pursuant to Perkins v. Origin Medsystems Inc., 299 F. Supp. 2d 45, 52 (D. Conn. 2004) the proponent of expert testimony has the burden of demonstrating by a preponderance of the evidence, that the testimony is competent, relevant, and reliable. (citing Koppell v. New York State Board of Elections, 97 F. Supp. 2d 477, 479 (S.D.N.Y. 2000)).

If the expert is deemed competent (otherwise referred to as "qualified"), the trial court must then determine, pursuant to its "gatekeeping" function, whether the proffered expert testimony is "relevant" and "reliable." See Advisory Committee Notes, 2000 Amendments, Fed. R. Evid. 702 (noting that trial judges have "the responsibility of acting as gatekeepers to exclude unreliable expert testimony").

Evidence is relevant if the testimony "has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Amorgianos v. AMTRAK, 303 F.3d 256, 264 (2d Cir. 2002) (citing Campbell v. Metro. Prop. & Cas. Ins. Co., 239 F.3d 179, 184 (2d Cir. 2001) (quoting Fed. R. Evid. 401)); Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 at 591 (1993).

"Expert testimony usually is necessary to establish a causal connection between an injury and its source unless the connection is a kind that would be obvious to laymen, such as a broken leg from being struck from an automobile." Tufariello v. Long Island R. Co., 458 F.3d 80 (2nd Cir. 2006) (quoting Simpson v. Northeast Ill. Reg'l Commuter R.R. Corp., 957 F. Supp. 136, 138 (N.D. Ill. 1997)). Furthermore, "[w]here an expert employs differential diagnosis to "'rule out' other potential causes" for the injury at issue,

he must also “rule in” the suspected cause, “and do so using scientifically valid methodology. Ruggiero v. Warner-Lambert Co., 424 F. 3d 249, 254 (2<sup>nd</sup> Cir 2005).

In the instant matter, Dr. Babu, as plaintiff’s medical expert, must specify the injuries allegedly sustained by plaintiff and casually relate them to the accident. However, to date, he has failed to issue a narrative report which does so “within a reasonable degree of medical probability.”

Instead, Dr. Babu concluded that “To the best of my ability, I feel there is a causal relation between the accident and the current condition.” (See Exhibits “C”, “D” and “E”). Read closely, the foregoing language amounts to nothing more than a guess or net opinion.

Alternatively, if Dr. Babu’s testimony regarding plaintiff’s alleged injuries and causation is deemed admissible, then defendants request that it be limited. Specifically, Dr. Babu should not be allowed to testify regarding plaintiff’s post-surgical permanency. (See Exhibits “D” and “E”).

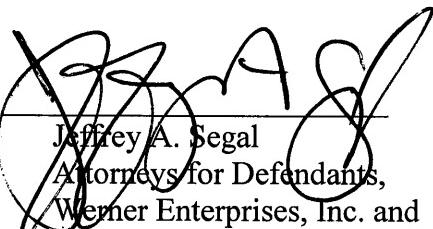
### **III. CONCLUSION**

**III. CONCLUSION**

WHEREFORE, the Defendants, Richard K. Bawuah and Cowan Equipment Leasing, respectfully request that the Court issue an order granting the Defendants' Motion in Limine excluding, or in the alternative, limiting the testimony of Ramish K.Babu, M.D., at trial.

RAWLE & HENDERSON LLP

By:

  
Jeffrey A. Segal  
Attorneys for Defendants,  
Werner Enterprises, Inc. and  
Paul J. Morrison  
140 Broadway, Suite 4636  
New York, New York 10005  
(212) 858-7570  
File No.: 801575

Dated: July , 2008.

## **EXHIBIT A**

801840

RECEIVED MAY 14 2008 D

**LAW OFFICE OF WINSTON ROUSE ESQ.**

**901 SHERIDAN AVENUE  
BRONX, NEW YORK 10451  
Telephone 718-588-7773  
Fax 718-588-8958**

May 6, 2008

Rawle & Henderson  
140 Broadway  
New York N.Y. 10005  
Attn: Jeffery Segal Esq.

Mr. Segal,

As per Rule 26 enclosed is a complete list of expert witness.

Dr Adren M Kaisman  
51 East 25th Street  
N.Y. N.Y. 10010

Dr Mitchell Zeren  
2676 Grand Concourse  
Bronx N.Y. 10458

Dr. Ramesh Babu  
530 1st Avenue  
N.Y. 10016 N.Y.

Sincerely



Winston B. Rouse Esq.

## **EXHIBIT B**

**LAW OFFICE OF WINSTON B. ROUSE ESQ., P.C.**  
**901 SHERIDAN AVENUE**  
**BRONX, NEW YORK 10451**  
**Telephone 718-588-7773**  
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MAY 28, 2008

**FAX**

**TO: RAWLE & HENDERSON**

**ATTN: JEFFERY SEGAL**

**SUBJECT: ENCLOSED IS THE CURRICULUM VITAE  
FOR DR. BABU AND DR. ZEREN MAILING  
TO FOLLOW**

## ZEREN FAMILY CHIROPRACTIC OFFICE

Dr. Michael M. Zeren

2676 Grand Concourse Suite A  
Bronx, New York 10458  
Tel: (718) 733-1000  
Fax: (718) 733-0351

### EDUCATION:

09/82-12/85      New York Chiropractic College  
Greenvale, New York  
Doctor of Chiropractic

### POST-CGRADUATE EDUCATION:

1989      Certified Chiropractic Sports Physician (CCSP)  
New York Chiropractic College  
Greenvale, L.I. New York.

1986      Certificate of Proficiency of Graduate X-ray Study in the  
specialty field of Spinal and Skeletal Disorders.

### EXPERIENCE:

1987-Present      2676 Grand Concourse      2150 Oscar Ct.  
Bronx, NY 10458      Cortlandt Manor, NY 10567  
(718) 733-1000      (914) 788-7111

Family practice. Performance of physical examinations and x-ray examinations. Spinal adjustments and adjunctive therapy including electrical muscle stimulation, traction, rehabilitative exercises and ultrasound therapy. Extensive work in sprain injuries, acute traumatic injuries, nutritional and exercise counseling.

Offering a holistic approach to health care.  
Authorized to render treatment to injured employees under the New York State Workers Compensation Law.

01/86-09/87      Bigbie Chiropractic Office, Mineola, New York.  
Chiropractor, duties include physical examinations, spinal adjustments, and use of physical therapy equipment.

### MEMBERSHIPS:

New York State Chiropractic Association 1986-1990.  
New York Chiropractic Council 1990-present.  
International Chiropractic Association 1987.  
American Chiropractic Association Council of Roentgenology 1986  
Hand Start Health Program Advisory Board, Bronx

**CURRICULUM VITAE**  
**RAMESH P. BABU, M.D.**

**PERSONAL DATA:**

Social Security No.: 134-78-6724  
Citizenship: American  
Home Address: 2 Hillair Court  
Office Address: White Plains, NY 10605  
530 First Avenue, Suite 7W  
New York, NY 10016-6402  
Office Telephone No.: (212) 263-3816  
Office Fax No.: (212) 263-6188  
E-mail Address: RAMESH.BABU@MED.NYILEDU

**EDUCATION AND TRAINING:**

Post-graduates:  
7/92 - 7/93 Microvascular and Skull Base Fellowship  
University of Pittsburgh Medical Center under Dr. Jannetta and Dr. Sekhar  
12/91 - 4/92 Clinical Fellowship  
Nordstadt Klinik; Hanover, Germany  
Under Professor Majjid Samii.  
7/88 - 6/93 Resident in Neurosurgery  
New York University Medical Center, New York, NY  
6/87 - 6/88 Internship in General Surgery  
New York University Medical Center, New York, NY  
4/86 - 5/87 Clinical Fellowship in Neurosurgery  
New York University Medical Center, New York, NY  
1980 - 1985 Resident in Neurosurgery  
National Institute of Mental Health and Neurosciences  
Bangalore, India  
1978-1979 Rotatory Internship, King George Hospital  
Vizakhapatnam, India

Graduate:  
8/78

M.B.B.S. Andhra Medical College  
Walajir, Vizakhapatnam  
Andhra Pradesh 530 003  
India

**ACADEMIC APPOINTMENTS:**

- 1/93 - Present Associate Professor of Clinical Neurosurgery  
New York University Medical Center, New York, NY
- 8/93 - 12/94 Assistant Professor in Neurosurgery  
New York Medical College; Valhalla, NY
- 7/89 - 6/92 Teaching Assistant in Neurosurgery (part-time)  
New York University Medical Center, New York, NY

**HOSPITAL APPOINTMENTS:**

New York University Medical Center  
Lenox Hill Hospital  
Beth Israel North Medical Center  
Bellevue Hospital Center  
Department of Veterans Affairs Medical Center  
New York Methodist Hospital  
Hospital for Joint Diseases

**CERTIFICATION AND LICENSURE:**

**Professional Examination:**

- 1998 Board Certification  
1990 American Board of Neurological Surgery  
American Board of Neurological Surgery  
Primary/Written  
1988 FLEX  
1982 ECFMG

**PROFESSIONAL MEMBERSHIP:**

- Member - AANS  
Member - CNS  
Member - North American Skull Base Society  
Member - American Medical Association  
Member - New York State Medical Society  
Member - Joint Section on Tumors  
Member - American Academy of Pain Management

**MEDICAL LICENSURE:**

- 1989 New York #177923  
1992 Pennsylvania, MD - 046229 - L

**RESEARCH:**

2001

Molecular Profile of Head and Neck Cancer. Protocol: H. M. A. Kurikos, F.C. Chen, M DeLacure, K. Fleisher, R. Glickman, J. Sok, X. Xue, R. Babu, H. Yee. NYU Medical Center, Bellevue Hospital, VA Medical Center and NYU College of Dentistry and Head and Neck Oncology Research Laboratory; New York, NY. Will be submitted for NIH Grant.

1982 - 1985

DNA Distribution in Brain Tumors

Clinical Behavior of Brain Tumors in Relation to DNA Distribution and its Histopathological Correlation. National Institute of Mental Health and Neurosciences; Bangalore, India.

**AWARDS:**

1965

Silver Jubilee Medal for Best Outgoing Student in Neurosurgery  
National Institute of Mental Health and Neurosciences  
Bangalore, India.

1978

Gold Medal in Social and Preventative Medicine  
Clinical Neurology

1977

Gold Medal in Pathology  
Gold Medal in Bacteriology

1976

Merit Certificate in Pharmacology

**PEER REVIEWED ARTICLES:**

1. Becker A, Cooper P., Babu P., Frempong-Boadu A., Enrico T., Lebovits A. Evaluation of pre-operative administration of the COX-2 inhibitor rofecoxib for the treatment of post-operative pain after lumbar disc surgery. *Journal of Neurosurgery*, May 2002; 50 (5).
2. Houzen JK, Babu R, Miller DC. Thoracic Paraganglioma Presenting with Spinal Cord Compression and Metastases. *Journal of Spinal Disorder Techniques*. August 2002, 15 (4); 319-323.
3. R. Pallini, L. Liveranti, L. Maria, C. Cesare, F. Eduardo, R. Babu. Isolated Inflammatory Pseudotumor of the Occipital Condyle. Report of three cases. *Journal of Neurosurgery, Spine section*, September 2002, Volume 97, #2.
4. Babu R, Lansen TA, Chadbourn A, Kaszoff SS: Erdheim-Chester Disease of Central Nervous System. *Journal of Neurosurgery*, May 1997.
5. Benjamin V. Babu R: Editorial Comment: Intradural Lumbar Disc Herniation. *Neurosurgery*, vol. 4, #4, October, 1997.

6. Babu R, Todor R, Knisoff SS: Pott's Puffy Tumor; the Forgotten Entity. *Journal of Neurosurgery*, 84, 110 - 112, 1996.
7. Barker PG, Jannetta PJ, Babu RP, Pernowik S, Bissonette DJ, Jho HD. Long-term outcome after operation for trigeminal neuralgia in patients with posterior fossa tumors. *Journal of Neurosurgery*, May 1996, Volume 84, No. 5, 818 - 825.
8. Babu R, Burton A, Kaooff S: Resection of Olfactory Groove Meningiomas Technical Note - Revisited. *Surgical Neurology*. 44 (6), 567 - 571, Dec 1995.
9. Samii M, Babu R, Marcos T.: Surgery of the Jugular Foramen Schwannoma, *Journal of Neurosurgery*, June 1994, Vol. 82, No. 6, 924 - 932.
10. Samii M, Migliore M, Tetzlaff M, Babu R: Surgical Treatment of Trigeminal Schwannoma. *Journal of Neurosurgery*, May 1995, vol. 82, No. 5, 711 - 719.
11. Tetzlaff M, Samii M, Dankowitz-Tiempe E, Aguiar P, Osterwald, Babu R, Osterday H: Echogenic ependymomas with Intracranial Extension; Proliferative Potential and Management. *Acta Neurochirurgica (Wien)* 1994; 129: 100 - 104.
12. Babu R, Sekhar LN, Wright DC. Extreme Lateral Transcondylar Approach; Technical Improvements and Lessons Learned. *Journal of Neurosurgery*, July 1994, Vol. 81, 49 - 59.
13. Babu R. Book review -- Surgery of cranial base tumors. Editors: Sekhar LN, Janischke IP. *Raven Press New York 1993, Journal of Neurosurgery and Neurology* Vol. 6, Number 3, July 1994.
14. Babu R, Ransohoff J, Cohen N, Zagzag D: Cavernous angiomas of the internal auditory canal. *Acta Neurochirurgica (Wien)* 1994; 129: 100 - 104.
15. Babu R, Huang P, Epstein F, Budzilovich G: Late radiation neurosis of the brain; a case report. Clinical study. *Journal of Neuro-Oncology*. Vol. 17: 37-42 (1993).
16. Weiner H, Zagzag D, Babu R, Weinreb H, Ransohoff J: Schwannomas of fourth ventricle. *Journal of Neuro-Oncology* 15 (1): 37-43, 1993.
17. Tetzlaff M, Hoker DK, Brandis A, Samii M, Osterday H, Babu R: Meningeal melanocytoma of the C<sub>7</sub> nerve root; a case report. *Neurosurgery* 31 (5), Nov. 1992.
18. Babu R, Jafar JJ, Huang PP, Budzilovich GN, Ransohoff J: Intramedullary abscess associated with a spinal cord ependymoma; a case report. *Neurosurgery* 30 (1): 123-124, 1992 January
19. Babu R, Murali R: Arachnoid cyst of the cerebellopontine angle manifesting as contralateral trigeminal neuralgia - case report. *Neurosurgery* 28 (6): 886-887, 1991 June.
20. Kurjakovic MA, Fishman A.J., Giacchi R., Gedra A., Sorin A., DeLacure M.D., Babu R: Quantitative Evaluation of Transsphenoidal and Facial Translocation Approaches to the Infratemporal Fossa. Manuscript submitted to *Journal of Neurosurgery*.

21. Kurliakose M.A., Fishman A.J., Sotin A., Sherez, R., DeLacure M.D., Eshel R. Quantitative Evaluation of Transtemporal and Facial Translocation Approaches to the infratemporal fossa. Skull Base an Interdisciplinary approach 1 (18) 17-27, 2008 January

#### BOOK CHAPTERS:

1. Identification of Differentially Expressed Genes of Head and Neck Squamous Cell Carcinoma by cDNA Microarray Analysis. F.A. Chen, W.I. Chen, M.D. Delacure, Z.Y. Zhang, W.L. Qiu, C.P. Zhang, R. Babu, M.A. Kurikosse. American Association of Cancer Research, Toronto, March 2003.
2. Kurikosse M.A., Fishman A.J., Giacchi R., Gadro A., Sorin A., DeLacure M.D., Babu R.. Quantitative Evaluation of Transstemporal and Facial Translocation Approaches to the Infratemporal Fossa. Manuscript in preparation for Journal of Neurosurgery.
3. Babu R. Choudhri H.: Surgical Management of Olfactory Groove Meningiomas. In press, to be published in Schmidek and Sweet Operative Neurosurgical Techniques, 4<sup>th</sup> Edition.
4. Babu R. Sudarasan N.: Craniofacial Resection of Malignant Tumors. In press, to be published in Schmidek and Sweet Operative Neurosurgical Techniques, 4<sup>th</sup> Edition.
5. Samii M, Babu R. Marcos T, Tamgiba M: Jugular Foramen Schwannoma. Neurosurgical Operative Atlas, Volume 8 (The American Association of Neurological Surgeons).
6. Samii M, Babu R. Marcos T, Tamgiba M: Trigeminal Schwannoma. Neurosurgical Operative Atlas, Volume 8 (The American Association of Neurological Surgeons).
7. Babu R. Pinsky M: Ethmoidoblastomas. Neurosurgical Operative Atlas, Volume 8. The American Association of Neurological Surgeons.
8. Jafri J, Babu R. Siegel B: Post-Traumatic Syringomyelia. In Farcy JPC, Floman Y, Argenson C (eds): Thoracolumbar Spine Fractures. Aspen Publishers Inc., Rockville, MD.
9. Benjamin V, Babu R.: Surgical Resection of Lower Clivus Anterior Foramen Magnum Meningioma. Neurosurgical Operative Atlas, Volume 4, 1996 (The American Association of Neurological Surgeons).
10. Sekhar L, Babu R.: General principles of skull base meningioma management. ED: J. Ransohoff, Neurosurgical Clinics of North America (April 1994).
11. Sekhar LN, Babu R.: Extreme Lateral Transcondylar Approach to Craniovertebral Junction. Contemporary Neurosurgery 15 (8): 1 - 6, 1993.

#### PRESENTATIONS:

1. Management of Anterior Cranial Fossa tumors. R. Babu. Annual Meeting of Maxillo Facial Surgeons of India. Mangalore, India, December 2003.

2. Identification of Differentially Expressed Genes of Head and Neck Squamous Cell Carcinoma by cDNA Microarray Analysis. F.A., Chen W.T. Chan, Y. Shnayder, M. DeLacure, P. Zheng, R. Babu, M.A. Kurilekose. American Head and Neck Society's Annual Meeting - COSM 2003. Nashville, TN, May 2, 2003.
3. Analysis of CdnA Microarray Data. F.A. Chen, J. Sok, MD DeLacure, R. Babu, M.A. Kurilekose. Invited lecture, Ninth Hospital. Shanghai, China, October 2002.
4. Facial Translocation Approaches to Skull Base Tumors. M.A. Kurilekose, R. Babu. Invited lecture. Ninth Hospital, Shanghai, China. October 2002.
5. Surgical Approaches to Antero-Lateral Skull Base. M.A. Kurilekose, R. Babu. Invited lecture. Cancer Hospital, Beijing, China. October 2002.
6. Microarray Analysis of Head and Neck Squamous Cell Carcinoma. M.A. Kurilekose, J. Sok, MD DeLacure, R. Babu, F.A. Chen. Sixth Research Workshop on Biology, Prevention and Treatment of Head and Neck Cancer. McLean, Virginia, October 2002.
7. Extended Mid-Facial Translocation Approach for Recurrent Nasopharyngeal Carcinoma. M.A. Kurilekose, N. Kubox, M. DeLacure, R. Babu. Submitted for North American Skull Base Meeting. San Diego, CA. February 2002.
8. Transfacial and Transtemporal Approaches to the Antero-Lateral Skull Base - A Cadaveric Study. M. Abraham Kurilekose, A. Fishman, R. Giacchi, A. Gadre, H. Lin, R. Babu, M. DeLacure. American Head and Neck Society (AHNS) Meeting. Palm Desert Springs 5/2001.
9. Transfacial and Transtemporal Approaches to the Antero-Lateral Skull Base - A Cadaveric Study. M. Abraham Kurilekose, A. Fishman, R. Giacchi, A. Gadre, H. Lin, R. Babu, M. DeLacure. Third International Craniofacial and Skull Base Surgery Symposium/International Interdisciplinary Congress on Skull Base and Craniofacial Surgery. Interlaken, Switzerland 3/2001.
10. NYU Pain Conference co-sponsored by the Eastern Pain Association. "Pain Management Strategies for the Primary Care Practitioner". New York, NY 11/17/00.
11. Lecture for Blue Cross Blue Shield's Medical Directors. "Laser Disc Surgery". 1 WTC, New York, NY. 2/28/00.
12. Medical Ground Rounds for "Vascular Compression Syndromes of the Brain". Methodist Hospital, Brooklyn, NY. 2/25/00.
13. Neurology Ground Rounds for "Cranial Nerve Cross Compression Syndromes". NYU Medical Center, New York, NY. 1/14/00.

14. Visiting Lecture. "Resection of Anterior Foramen Magnum Meningioma, Traditional versus Skull Base Techniques." Faculty (Clinical Neurosurgery Conference in Hannover, Germany). 11/99.
15. Congress of Neurosurgical Surgeons Faculty meeting for Lateral Skull Base Approaches. Boston, Massachusetts. 10/99.
16. Visiting Lecture. "Advances in the Management of Disc Herniation for the Update in Medicine and Surgery." 4<sup>th</sup> Annual Martin L. King Holiday Weekend CME Seminar. Las Vegas, NV. 1/15/99 thru 1/18/99.
17. American Association for Physicians of Indian Origin. Faculty - CME. Las Vegas, NV. 1/99.
18. North American Skull Base Society Meeting. Faculty. Hawaii. 8/98
19. Neurosurgical Management of Primary Cavernous Sinus Meningiomas. H. Choudhri, V. Benjamin, M. Kupersmith, R. Hunan, S. Russel, R. Babu. Poster Presentation; CNS. 1997
20. Use of Laryngeal Mask Air Way (LMA) During Glycerol Rhizotomy for Trigeminal Neuralgia. Congress of Neurological Surgery. New Orleans, Louisiana. H.H. Woo, J.P. Osborn, R. Babu. 1997.
21. Complications and Limitations of Surgery in Petroclival Meningiomas for the Second International Skull Base Congress. San Diego, California. R. Babu, V. Benjamin. Oral Presentation. 7/96.
22. Tuberculum Sellae Meningiomas: Surgical Technique and Results for the Second International Skull Base Congress. G. Jallo, R. Babu, V. Benjamin, Oral Presentation. 7/96.
23. Anterior Foramen Magnum Meningioma - Application of Retrocondylar Approach - Surgical Results for the Second International Skull Base Congress. San Diego, California. R. Babu, V. Benjamin. Oral Presentation. 7/96.
24. Surgical Management of Thoracic Spadylotic Myopathy. AANS. Minneapolis, Minnesota. A. Rezai, R. Babu, V. Benjamin. 1996.
25. Lower Clivus/Anterior Foramen Magnum Meningiomas - Application of Postero-lateral Retrocondylar Approach and Results - Poster presented at the Annual Meeting of the North American Skull Base Society; Naples, Florida. 2/95.
26. Lower Clivus/Anterior Foramen Magnum Meningiomas - Application of Postero-lateral Retrocondylar Approach and Results. V. Benjamin and R. Babu. Accepted for Poster Presentation at the Annual Meeting of the AANS in Orlando, Florida. 4/95.
27. "Trigeminal Neuralgia Associated with Posterior Fossa Tumors: Long-term Results in 25 Patients". Authors: Fred Barker M.D., Ramech Baba M.D., Peter Jannetta M.D., Spiros Papanicola M.D., David Blaneckie P.A. North American and German Skull Base Societies Meeting; Orlando, Florida. 2/94
28. Surgery for Jugular Foramen Schwannoma: M. Tagaiba, M. Samii, R. Babu. Presented at the North American and German Skull Base Societies Meeting; Orlando, Florida. 2/94.

- May 20, 2008 11:40AM
29. "Skull Base Surgery - Anterior Approaches". Co-Directors: Laligam N. Sekhar, Donald C. Wright. Faculty: Ramesh Babu, Michael B. Cusimano, Dargatz Forest, Brian Holmes, Sunil J. Patel, Chandranath Sen, Mitesh V. Shah. 10/93.
30. "Lateral Approaches to the Skull Base". Co-Directors: Laligam Sekhar, Harry Van Loveren. Faculty: Donald Wright, Chandranath Sen, Stephen Cass, Jeffrey Kellic, Jon Hart, Ramesh Babu, Sunil J. Patel, Phil Shields, Murali Guthikonda. 4/93.
31. "Skull Base Approaches to Anomalous Surgery". Kamal Kalra, Laligam N. Sekhar, Ramesh Babu, Chandra Sen, Howard Yoon. 1993 North American Skull Base Society Meeting; Scottsdale, Arizona. 1993.
32. "Extreme Lateral Transcondylar Approach: Lessons Learned". Ramesh Babu, Laligam N. Sekhar, Chandra N. Sen. 1993 North American Skull Base Society Meeting; Scottsdale, Arizona. 1993.
33. "Extreme Lateral Transcondylar Approach: Lessons Learned". Ramesh Babu, Laligam N. Sekhar, Chandra N. Sen. 1993 Annual Meeting of American Association of Neurological Surgeons; Boston, Massachusetts. 1993.
34. "Unusual Lesion of Internal Auditory Canal". New York Neurosurgical Society, Curiosity Club. 1991.
35. "Spinal Intramedullary Abscess in a Pre-Existing Tumor". New York Neurological Society, Curiosity Club. 1989.
36. "Medulloblastomas in Children. A Long Term Follow-up". K. Narayana Swamy, B.S. Das, Ramesh Babu. Paper presented at the Annual Conference of Pediatric Neurosurgery; Hyderabad, India. 1983.
37. "Cervical Canal Stenosis". K. Narayana Swamy, B.S. Das, Ramesh Babu. Paper presented at the XXXII Annual Conference of Neurological Society of India, Banaras. 1983.
38. "Traumatic Posterior Fossa Clots". Ramesh Babu, B.S. Das, G.N. Narayan Reddy. Paper presented at the XXIX Annual Conference of the Neurological Society of India; Cuttack, India. 1982.
39. "Primitive Neuroectodermal Tumors". Ramesh Babu, V. Shankar, B.S. Das. Paper presented at the XXXI Annual Conference of the Neurological Society of India; Visakhapatnam, India. 1982.
40. Identification of Differentially Expressed Genes of Head and Neck Squamous Cell Carcinoma by CDNA Microarray Analysis. F.A., Chen W.T. Chen, Y. Shneyder, M. DeLaure, P. Zhang, R. Baba, M.A. Kurzakose. Department of Otolaryngology, New York University, NY, USA. Department of Oral and Maxillofacial Surgery, 9<sup>th</sup> Hospital, Shanghai, China.

C:\  
Updated 7/8/04  
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## **EXHIBIT C**



## NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Rameah P. Babu, M.D.  
Assistant Professor of Clinical Neurosurgery

Department of Neurosurgery  
530 First Avenue, Suite 7W  
New York, NY 10016-6497  
Telephone: (212) 263-7481  
Facsimile: (212) 263-6188

October 1, 2007

GEICO  
PO BOX 116  
Woodbury, NY 11797

RE: Lee, Dionne  
Claim #020492379010123  
D/A: 5/9/07  
Date of Exam: 9/28/07

**HISTORY:** I had the pleasure of examining Dionne Lee on 9/28/07 for neurosurgical consultation. I have done the complete evaluation of this patient including history and physical examination and review of systems as well as the review of the radiological studies. Dionne Lee is a 43-year-old patient who was injured in a motor vehicle accident on May 9, 2007 when she was hit by a truck. She complains of neck pain, inability to move the neck since that time and back pain. She has tried conservative management including physical therapy, chiropractic management and non-steroidal anti-inflammatory medications, but it is not helping her. The patient was here to seek my opinion as far as further management is concerned.

**MEDICATIONS:** The patient is currently on non-steroidal anti-inflammatory medication as necessary.

**SOCIAL HISTORY:** The patient does not give a history of allergies.

**FAMILY HISTORY:** None contributory.

**PAST MEDICAL HISTORY:** None contributory.

**PHYSICAL EXAMINATION:** Revealed an adult female with complaints of neck pain, inability to move the neck since that time and back pain. The patient is awake, alert, and oriented times three. Pupils are equal and reactive. Extraocular movements are full. There were no deficits found in cranial nerves II through XII. Speech and mentation are normal. On examination, neck movements are severely restricted. Any amount of neck



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movement will produce excruciating pain going down the bilateral upper extremities. The plantars are down going. Sensory and vibratory sense is normal. Cerebellar examination revealed normal coordination and gait. The MRI of the cervical spine demonstrates a disc herniation at C5-6 and the MRI of the lumbar spine demonstrates a disc herniation at L4-5 and L5-S1. I have advised her to have a cervical spine surgery. she is going to schedule the surgery.

**CAUSALITY:** To the best of my ability, I feel there is a causal relation between the accident and the current condition.

Sincerely,



Ramesh P. Babu, MD

**NEW YORK UNIVERSITY SCHOOL OF MEDICINE**

Ramesh P. Babu, M.D.  
Assistant Professor of Clinical Neurosurgery

Department of Neurosurgery  
530 First Avenue, Suite 7W  
New York, NY 10016-6497  
Telephone: (212) 263-7481  
Facsimile: (212) 263-6188

October 1, 2007

**No-Fault Insurance Company**

Patient Name: Dionne Lee

Dear Sirs:

I had the pleasure of seeing Ms. Lee in the office. As you know, she is a 43-year-old lady who was involved in a car accident on May 9, 2007. She was hit by a truck. She has complaints of neck pain and inability to move the neck since that time. She also complains of back pain. On examination, she has severely restricted neck movements. Any amount of neck movement will produce excruciating pain going down the both upper extremities. MRI shows C5-C6 herniated disc. Lumbar spine shows disc disease at L4-L5 and L5-S1. She tried physical therapy and acupuncture, but nothing has helped her. At this time, I have advised her to have cervical spine surgery. She is going to schedule the surgery.

If you have any questions, please call us at (212) 263-7481.

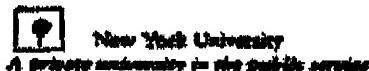
Sincerely,

Ramesh P. Babu, M.D.

Dictated but not read.

cc: Dr. Zeren

vd-vs



## **EXHIBIT D**



## NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Ramesh P. Babu, M.D.  
Assistant Professor of Clinical Neurosurgery

Department of Neurosurgery  
530 First Avenue, Suite 7W  
New York, NY 10016-6497  
Telephone: (212) 263-7481  
Facsimile: (212) 263-6188

December 10, 2007

GEICO  
PO Box 116  
Woodbury, NY 11797

RE: Lee, Dionne  
Claim #0204923790101023  
D/A: 5/9/07  
Date of Exam: 12/10/07

**HISTORY:** I had the pleasure of examining Dionne Lee on 12/10/07 for follow up neurosurgical consultation. I have done the complete evaluation of this patient including history and physical examination and review of systems as well as the review of the radiological studies. Dionne Lee is a 43-year-old patient who was injured in a motor vehicle accident on May 9, 2007. The patient underwent cervical spine surgery on October 31, 2007.

**MEDICATIONS:** Non-steroidal anti-inflammatory medications.

**SOCIAL HISTORY:** The patient does not give a history of allergies. The patient is not hypertensive.

**FAMILY HISTORY:** None contributory.

**PAST MEDICAL HISTORY:** None contributory.

**PHYSICAL EXAMINATION:** Revealed an adult female with complaints of neck pain. The patient is awake, alert, and oriented times three. Pupils are equal and reactive. Extraocular movements are full. There were no deficits found in cranial nerves II through XII. Speech and mentation are normal. On examination, neck movements are restricted. The plantars are down going. Sensory and vibratory sense is normal. Cerebellar examination revealed normal coordination and gait. At this time, I advised her to progressively increase the activities of daily life and to do physical therapy.



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**CAUSALITY:** To the best of my ability, I feel there is a causal relation between the accident and the current condition.

Sincerely,

  
Ramesh P. Babu, MD



**NEW YORK UNIVERSITY SCHOOL OF MEDICINE**

Ramesh P. Babu, M.D.  
Assistant Professor of Clinical Neurosurgery

Department of Neurosurgery  
530 First Avenue, Suite 7W  
New York, NY 10016-6497  
Telephone: (212) 263-7481  
Facsimile: (212) 263-6188

December 10, 2007

**No-Fault Insurance Company**

Patient Name: Dionne Lee

Dear Sirs:

I had the pleasure of seeing Ms. Lee in the office. She is doing well following the cervical spine surgery, but she still has pain in the neck. On examination, neck movements are restricted. I have advised her to progressively increase the activities of daily life and do physical therapy.

If you have any questions, please call us at (212) 263-7481.

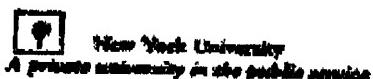
Sincerely,

Ramesh P. Babu, M.D.

Dictated but not read.

cc: Mitchell M. Zeren, D.C.

vd-vs



## **EXHIBIT E**



## NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Ramesh P. Babu, M.D.  
Assistant Professor of Clinical Neurosurgery

Department of Neurosurgery  
530 First Avenue, Suite 7W  
New York, NY 10016-6497  
Telephone: (212) 263-7481  
Facsimile: (212) 263-6188

February 15, 2008

GEICO  
PO Box 116  
Woodbury, NY 11797

RE: Lee, Dionne  
Claim #0204923790 101023  
D/A: 5/9/07  
Date of Exam: 2/15/08

**HISTORY:** I had the pleasure of examining Dionne Lee on 2/15/08 for follow up neurosurgical consultation. I have done the complete evaluation of this patient including history and physical examination and review of systems as well as the review of the radiological studies. Dionne Lee is a 43-year-old patient who was involved in a motor vehicle accident on May 9, 2007. She underwent surgery in October 2007 and still complains of some neck pain.

**MEDICATIONS:** Non-steroidal anti-inflammatory medications.

**SOCIAL HISTORY:** The patient does not give a history of allergies. The patient is not hypertensive, nor diabetic.

**FAMILY HISTORY:** None contributory.

**PAST MEDICAL HISTORY:** None contributory.

**PHYSICAL EXAMINATION:** Revealed an adult female with complaints of neck pain. The patient is awake, alert, and oriented times three. Pupils are equal and reactive. Extraocular movements are full. There were no



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deficits found in cranial nerves II through XII. Speech and mentation are normal. On examination, neck movements are restricted. The reflexes are equal. The plantars are down going. Sensory and vibratory sense is normal. Cerebellar examination revealed normal coordination and gait. At this time I have advised her to do physical therapy and see me in follow up.

**CAUSALITY:** To the best of my ability, I feel there is a causal relation between the accident and the current condition.

Sincerely,

Ramesh P. Babu, MD